with this case. See 19 MICH. L. REV. 545. The criticism against this view is that in the ordinary case the person injured is unable to collect any damages owing to the lack of financial responsibility of most minors. See 2 VA. L. REV. 208. Many states have passed statutes making the owner of the automobile liable when it is being driven with his express or implied consent. This is the law in Michigan, Sec. 29 of Act 302, Public Acts 1915 (§ 4825, Comp. Laws 1915). Many remedies have been suggested in the past few years. See 9 Cal. L. R. 250. But there is yet a good deal to be done by way of solution.

TRUSTS—CHARITABLE GIFTS SUBSEQUENTLY IMPOSSIBLE OF PERFORMANCE. —In 1903 Leander Clark accepted a public offer of Western College to name their school after the donor of $50,000 to a permanent endowment fund which the college was trying to raise. Mr. Clark proposed, and the college accepted, additional conditions, among which were the following: that the endowment fund was to be set at $150,000, to be "a permanent endowment fund, the principal of which shall be protected and forever held sacred as such and no part of it shall ever, on any pretense or in any emergency, be pledged or hypothecated for any purpose or be temporarily or permanently loaned to any other fund of the college." The Leander Clark College in 1919, being financially unable to continue, negotiated a consolidation with Coe College under the name of the latter, and proposed to transfer the endowment fund to the consolidated school. This transfer was attacked on behalf of parties interested in the residuary estate of Leander Clark. Without deciding the merits of the merger, the court *held* (two judges dissenting), that the parties interested in the residuary estate were not entitled to receive the fund in controversy, remarking that "the dominant purpose of the gift * * * was to establish a perpetual charitable trust for the aid and support of Christian education." *Lupton v. Leander Clark College* (Ia., 1922), 187 N. W. 496.

That such a gift, if to a public charity generally, is valid, though the specific manner of carrying it out has for some reason become impossible, is well established. *Jackson v. Phillips,* 14 Allen (Mass.) 539; *Central University of Ky. v. Walters' Exrs.,* 122 Ky. 65; *Russell v. Allen,* 107 U. S. 163; *Lackland v. Hadley,* 260 Mo. 539; *Richards v. Wilson,* 185 Ind. 335; *Mason v. Bloomington Library Assn.,* 237 Ill. 442; *Hodge v. Wellman* (Ia., 1920), 179 N. W. 534; 2 PERRY, TRUSTS, § 725; BOGERT, TRUSTS, § 63. The Iowa court in the principal case, in deciding that there was a gift to education generally, concluded that the naming of the college for the donor was a secondary consideration. It also concluded that the general intent must prevail in the absence of a specific provision that there should be a forfeiture in case the college could not carry out the conditions. This liberal interpretation seems to be in line with the favorable attitude of the courts toward charitable gifts, *Estate of Hinckley,* 58 Cal. 457; *Duggan v. Slocum,* 92 Fed. 806; and with the principles of interpretation which Mr. Perry suggests: "as in construing deeds under doubtful circumstances," construe the instru-

ment most "strongly against the grantor." 2 PERRY, TRUSTS, p. 1188. Another justification is that of *Biscoe v. Jackson*, 35 Ch. Div. 460 (1887), where Mr. Justice Kay said that if the mode of applying the gift could be separated from the intent, then the intent should be taken to be a general gift to a charity. (Cited with approval in 4 MICH. L. REV. 287.) It is to be observed that the dissenting judges based their position on a strict interpretation such as would govern an ordinary private contract.

WILLS—REVOCATION—UNDUE INFLUENCE.—In a case which is reported as a syllabus only, the Georgia Court of Appeals *held*, that "The fact that the deceased had made a will and had been intimidated into destroying it is not relevant, upon an application for administration upon the estate of the deceased, to negative the fact of intestacy; and such evidence was properly excluded." *Pate v. Pate* (Ga. App.), 113 S. E. 50.

This holding seems to find no support either in principle or authority. PAGE, WILLS, §§ 256-257; GARDNER, WILLS (Ed. 2), pp. 231-2; JARMAN, WILLS (Ed. 6), pp. 145 *et seq.* "Substantially as much capacity is required to revoke a will as to make one." GARDNER, op. cit., p. 232. And the revocation, like the execution, of a will is vitiated by insanity of the testator, by undue influence ("intimidation"), etc., inducing the revocation. Insanity undue influence, etc., are matter of fact dehors the will or its revocation; hence, unless these vitiating circumstances are to be ignored entirely in connection with revocation, parol evidence must be admitted in this class of cases in order to prove (as was sought to be done in the principal case) that the mere physical destruction of his will by a testator is not the product of the free will of a competent actor, is not accompanied, in the legal sense, by *animus revocandi*, is not, in short, the revocatory act that it seems to be.